

**UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF MASSACHUSETTS**

**LEXINGTON INSURANCE COMPANY AND  
NATIONAL UNION FIRE INSURANCE COMPANY  
OF PITTSBURGH,**

Plaintiffs

v.

**VIRGINIA SURETY COMPANY, INC.,  
Defendant.**

**CIVIL ACTION  
No. 04-11109 RGS**

**CERTIFICATION BY COUNSEL FOR PLAINTIFFS, LEXINGTON INSURANCE COMPANY AND  
NATIONAL UNION INSURANCE COMPANY OF PITTSBURGH, PENNSYLVANIA, REGARDING  
MOTION TO CLARIFY ORDER ON CROSS-MOTIONS FOR SUMMARY JUDGMENT PURSUANT TO  
LOCAL RULE 7.1(A)(2)**

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Pursuant to Local Rule 7.1(A)(2), the undersigned counsel for Plaintiffs, Lexington Insurance Company and National Union Insurance Company of Pittsburgh, Pennsylvania, certifies that counsel for the respective parties have conferred and have attempted to resolve or narrow the issues presented by Plaintiffs' Motion to Clarify Order on Cross Motions for Summary Judgment, including the primary issue of whether Lexington's Stand Alone Excess Liability Policy form is subject to the Court's May 3, 2007, Order on Cross Motions for Summary Judgment. The parties

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have not been able to reach an accord as to these issues; therefore, the Plaintiffs are filing the accompanying Motion to Clarify Order.

Dated: May 14, 2007

Respectfully submitted,

Defendants, ***Lexington Insurance Company and  
National Union Fire Insurance Company of  
Pittsburgh, PA.,***  
By their attorneys,

/s/ Gerald S. Frim

Mark E. Cohen [BBO #089800]

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Gerald S. Frim [BBO #656204]

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**CERTIFICATE OF SERVICE**

I, Gerald S. Frim, hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on May 14, 2007.

**Dated:** May 14, 2007

/s/ Gerald S. Frim  
Gerald S. Frim

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